

REMARKS

Claims 3, 4, 7, 10, 27, 33, 35-37, 54, 57, 58, and 61-74 are presently pending. The Office Action mailed September 4, 2008, asserts that claims 3, 4, 7, 10, 27, 33, 35-37, 54, 57, 58, and 61-74 are directed to the following patentably distinct species:

Species of the modifying step:

- A) polymerase chain reaction (claims 58 and 73);
- B) ligase chain reaction (claim 68)
- C) cycling probe technology (claim 69);
- D) Invader (claim 70);
- E) oligonucleotides ligation assay (claim 71);
- F) single base extension (claim 72);
- G) rolling circle amplification (claim 74);

In response Applicants elect with traverse the species recited in claim 73 set forth as Species A) in the Office Action. Contrary to the Examiner's assertion that claim 73 is limited to PCR amplification, Claim 73 recites a more general modification step of "amplification." Applicants further respectfully point out that PCR as recited in claim 58 is a species of amplification, as are several other species including ligase chain reaction (claim 68) and rolling circle amplification (claim 74).

In summary, Applicants elect the species of claim 73 (amplification) with traverse and request reconsideration and withdrawal of the species election requirement and further assert that searching and examining the species together would not be an undue burden.

CONCLUSION

The Examiner is invited to call the undersigned attorney if there are any questions. To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made.

Application No.: 09/642,068

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 502624 and please credit any excess fees to such deposit account.

Respectfully submitted,

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